



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2982



Kelley Robinson and Katie Cyr
PO Box 8
Lochmere, NH 03252

RE: Belmont Tax Map 120, Lot 10
Gardners Grove, Silver Lake
Belmont, New Hampshire
File # 2002-324

ADMINISTRATIVE ORDER
RECEIVED
BY CONSENT

No. WD 02-23

JUL 02 2002

June 18, 2002

ENVIRONMENTAL SERVICES
WETLANDS BUREAU

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division to Kelley Robinson and Katie Cyr pursuant to RSA 483-B. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH 03301.
2. Kelley Robinson and Katie Cyr are individuals having a mailing address of PO Box 8, Lochmere, NH 03252.

C. STATEMENTS OF FACTS AND LAW

1. Pursuant to RSA 483-B, the Comprehensive Shoreland Protection Act ("CSPA"), the Department of Environmental Services ("DES") regulates development activities in the protected shoreland zone established under the CSPA. Pursuant to RSA 483-B:17, the Commissioner of DES has adopted Env-Ws 1400 to implement this program.
2. Kelley Robinson and Katie Cyr are the owners of a parcel of land located on the shore of Silver Lake, in Belmont, NH, more particularly identified on Town of Belmont Tax Map 120 as Lot 19 ("the Property").
3. On February 20, 2002, DES personnel inspected the Property and observed the following:
 - a. Within the natural woodland buffer of the protected shoreland, a healthy, well-distributed stand of trees, saplings, shrubs and ground covers had not been left in place
 - b. Four stumps had been removed from within 50 feet of the reference line of Silver Lake.

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- c. An area of the bank within NHDES Wetlands Bureau jurisdiction measuring 16 linear feet by 20 feet had been disturbed without a permit.
 - d. Disturbed soils were present without adequate erosion and siltation control measures in place.
4. RSA 483-B:9, V(a)(2)(A) requires that, "not more than a maximum of 50 percent of the basal area of trees, and a maximum of 50 percent of the total number of saplings shall be removed for any purpose in a 20-year period. A healthy, well-distributed stand of trees, saplings, shrubs and ground covers and their living, undamaged root systems shall be left in place."
 5. RSA 483-B:9, V(a)(2)(E) requires that, "stumps and their root systems which are located within 50 feet of a reference line shall be left intact in the ground, unless removal is specifically approved by the department, pursuant to RSA 482-A."
 6. Mr. Robinson and Ms. Cyr had not applied for nor had DES issued a permit pursuant to RSA 482-B prior to or following the removal of stumps within 50 feet of the Silver Lake reference line on the Property.

D. DETERMINATION OF VIOLATIONS

1. Kelley Robinson and Katie Cyr have violated RSA 483-B:9, V(a)(2)(A) by removing more than 50 percent of the basal area of trees and more than 50 percent of the total number of saplings, and by failing to maintain a healthy, well-distributed stand of trees, saplings, shrubs and ground covers and their living, undamaged root systems within the natural woodland buffer.
2. Kelley Robinson and Katie Cyr have violated RSA 483-B:9, V(a)(2)(E) by removing stumps within 50 feet of the Silver Lake reference line without approval from DES.

E. ORDER

Based on the above findings, DES hereby orders Kelley Robinson and Katie Cyr as follows

1. Within 30 days of this Order, submit a restoration plan to DES for review and approval. The restoration plan shall include the following:
 - a. A plan with dimensions, drawn to scale, showing:
 - i. existing conditions; and
 - ii. proposed conditions once restoration is completed;
 - b. A detailed description of the proposed means of erosion and sedimentation controls and stabilization of the restoration area;
 - c. A detailed description of the proposed planting plan for the stabilization and revegetation of the restoration area. A plantings plan showing the number, species, and location of proposed plantings. Saplings shall be no less than 6 feet in height, and all plantings shall be

selected from the list of New Hampshire native and naturalized species. Seedlings should be proposed in the areas where trees were removed;

d. A detailed description of how the bank will be restored. This should be accomplished by restoring the disturbed area to original grade, applying a sufficient amount of loam to sustain vegetation, stabilization with jute matting, and planting with native and non-native species. The 27 linear foot beach area may remain as it previously existed consistent with the photograph provided to DES by Katie Cyr; and

e. A description of the proposed construction sequence and methods for accomplishing the restoration, and timeframe for completion.

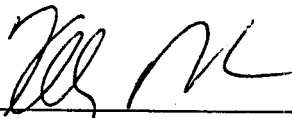
2. Implement the restoration plan only after receiving written approval and as conditioned by DES.
3. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order by Consent, to DES as follows:

Allyson Gourley
DES Water Division
6 Hazen Drive
PO Box 95
Concord, NH 03302-0095
Fax: (603) 271-6588
e-mail: agourley@des.state.nh.us

F. CONSENT AND WAIVER OF APPEAL

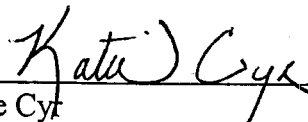
1. By execution of this Administrative Order by Consent, Kelley Robinson and Katie Cyr agree that this Order shall apply to and be binding upon Kelley Robinson and Katie Cyr, their successors and assigns, and agree that this Order may be entered and enforced by a court of competent jurisdiction.

2. By execution of this Administrative Order By Consent, Kelley Robinson and Katie Cyr waive any right to appeal this Administrative Order By Consent provided by statute, rule or common law, including without limitation the right to appeal to the Water Council, and waives any right to object to the entry and enforcement of this Order by a court of competent jurisdiction.



Kelley Robinson


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Date: 7/1/02
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Katie Cyr


Date: 7-1-02

NH DEPARTMENT OF ENVIRONMENTAL SERVICES



Harry T. Stewart, P.E., Director
Water Division

Date: 7/8/02



George Dana Bisbee
Assistant Commissioner

Date: 7/8/02

Certified Mail/RRR: 7099 3400 0003 0687 8990

cc: Gretchen Rule, Administrator, DES Legal Unit
Public Information Officer, DES PIP Office
Belmont Board of Selectmen
Belmont Conservation Commission